

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

4 ORACLE USA, INC., a Colorado :
corporation; Oracle America, :
5 Inc., a Delaware corporation; :
and Oracle International :
6 Corporation, a California :
corporation, :
7 Plaintiffs, :
8 vs. :
9 RIMINI STREET, INC., a Nevada :
10 corporation; and SETH RAVIN, :
an individual, :
11 Defendants. :
12

**TRANSCRIPT OF JURY TRIAL - DAY 21
(Pages 3907 through 3961)**

October 13, 2015

Las Vegas, Nevada

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1 LAS VEGAS, NEVADA, OCTOBER 13, 2015, 10:30 A.M.

2 --oo--

3 P R O C E E D I N G S

4

5 (Outside the presence of the jury.)

6 THE COURT: Good morning. Decision time.

7 Have a seat, please.

8 The record will show that we're in open court.

9 The jury is not yet present. However, approximately half
10 an hour ago, which would have been about 10:00 a.m., give
11 or take 10 minutes, we received a note from the jury that
12 they had reached a verdict.

13 So at this time, let's bring the jury in,
14 please.

15 COURTROOM ADMINISTRATOR: Yes, Your Honor.

16 They'll be in just a minute.

17 THE COURT: Okay. The marshal will bring them
18 in?

19 COURTROOM ADMINISTRATOR: Yes.

20 (Jurors enter courtroom at 10:32 a.m.)

21 THE COURT: Good morning. Have a seat, please.

22 The record will show that we're in open court.

23 The parties and counsel are present. The jury is all
24 present. And we received a note that the jury's reached a
25 verdict.

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1 And, ~~|||||||~~, I see you have the verdict
2 envelope.

3 Madam Clerk, would you please obtain the verdict
4 form.

5 COURTROOM ADMINISTRATOR: Yes, Your Honor.

6 THE COURT: I'm sure, ladies and gentlemen, that
7 you were stricken with how long the verdict form was too
8 and how many questions. And it's -- one of my duties now,
9 before we take our next step of announcing the verdict, is
10 to review the form and ensure that it appears to follow
11 everything that was involved here.

12 All right. Ladies and gentlemen, I've reviewed
13 the verdict form, and it appears to the Court to be
14 consistent.

15 Madam Clerk, would you please publish the jury's
16 verdict.

17 COURTROOM ADMINISTRATOR: Yes, Your Honor.

18 In the case of Oracle USA, Inc., a Colorado
19 corporation; Oracle America, Inc., a Delaware corporation;
20 and Oracle International Corporation, a California
21 corporation, Plaintiffs, versus Rimini Street, Inc., a
22 Nevada corporation; and Seth Ravin, an individual,
23 Defendants.

24 In civil case 2:10-cv-0106-LRH-PAL.

25 We the jury, in the above-entitled case,

1 unanimously find --

2 THE COURT: Now, excuse me, Dionna.

3 Ladies and gentlemen, let me caution you.

4 Because of the length of the verdict, it's important that
5 you listen to how it's read from beginning to end because
6 at the end of that, I will ask you whether that verdict
7 truly and accurately reflects the verdict that all of you
8 reached in this case.

9 And so it's important that you be listening to
10 this. Your work is not quite yet done. So please listen.
11 And I'm sorry for interrupting. I just wanted to make that
12 clear before we got into the actual reading of the awards.

13 Go ahead, please.

14 COURTROOM ADMINISTRATOR: Yes, Your Honor. We
15 the jury, in the above-entitled case, unanimously find as
16 follows:

17 Infringement.

18 Question 1: PeopleSoft Documentation.

19 Has Oracle International Corporation proven by a
20 preponderance of the evidence that Rimini Street engaged in
21 copyright infringement by copying copyrighted PeopleSoft
22 documentation in a manner not authorized by the terms of
23 the PeopleSoft software license agreements that the Court
24 has explained to you?

25 Yes.

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1 Question 2: JD Edwards Software and
2 Documentation.

3 Has Oracle International Corporation proven by a
4 preponderance of the evidence that Rimini Street engaged in
5 copyright infringement by copying copyrighted JD Edwards
6 software and documentation in a manner not authorized by
7 the terms of the JD Edwards software license agreements
8 that the Court has explained to you?

9 Yes.

10 Question 3: Siebel Software and Documentation.

11 Has Oracle International Corporation proven by a
12 preponderance of the evidence that Rimini Street engaged in
13 copyright infringement by copying copyrighted Siebel
14 software and documentation in a manner not authorized by
15 the terms of the Siebel software license agreements that
16 the Court has explained to you?

17 Yes.

18 Question 4: Contributory Infringement.

19 Has Oracle International Corporation proven by a
20 preponderance of the evidence that defendant Seth Ravin
21 engaged in contributory copyright infringement of the
22 following Oracle International Corporation copyrighted
23 works?

24 PeopleSoft Software. No.

25 PeopleSoft Documentation. No.

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1 JD Edwards Software and Documentation. No.

2 Siebel Software and Documentation. No.

3 Oracle Database. No.

4 Question 5: Vicarious Infringement.

5 Has Oracle International Corporation proven by a
6 preponderance of the evidence that defendant Seth Ravin
7 engaged in vicarious copyright infringement of the
8 following Oracle International Corporation copyrighted
9 works?

10 PeopleSoft Software. No.

11 PeopleSoft Documentation. No.

12 JD Edwards Software and Documentation. No.

13 Siebel Software and Documentation. No.

14 Oracle Database. No.

15 Copyright Infringement Damages.

16 Question 6: Actual Damages.

17 What do you find is the best measure of Oracle
18 International Corporation's actual damages for all acts of
19 copyright infringement engaged in by defendant Rimini
20 Street?

21 Fair Market Value License.

22 Regardless of whether you find that Lost Profits
23 or a Fair Market Value License is the best measure of
24 actual damages in this action, please answer all three of
25 the following questions concerning damages: Questions 6a,

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1 6b and 6c. Your answer to the damages question that you
2 find is not the best measure of actual damages, either Lost
3 Profits or a Fair Market Value License, is advisory to the
4 Court only.

5 Question 6a. Lost Profits.

6 What amount of Lost Profits, if any, has Oracle
7 International Corporation proven by a preponderance of the
8 evidence for all acts of copyright infringement engaged in
9 by defendant Rimini Street? If you found in Questions 1
10 through 3 that defendant Rimini Street did not engage in
11 copyright infringement as to a particular copyrighted work,
12 please do not consider that copyrighted work in your
13 damages amount.

14 Total Lost Profits is zero.

15 Question 6b. Defendant's Profits.

16 What amount of Rimini Street's Profits, if any,
17 has Oracle International Corporation proven by a
18 preponderance of the evidence for all acts of copyright
19 infringement engaged in by defendant Rimini Street? If you
20 found in Questions 1 through 3 that defendant Rimini Street
21 did not engage in copyright infringement as to a particular
22 copyrighted work, please do not consider that copyrighted
23 work in your damages amount.

24 Total Amount of Defendant's Profits. Zero.

25 Question 6c. Fair Market Value License.

1 What amount do you find that Oracle
2 International Corporation has proven by a preponderance of
3 the evidence is the Fair Market Value License for all of
4 the infringed copyrighted works? If you found in Questions
5 1 through 3 that defendant Rimini Street did not engage in
6 copyright infringement as to a particular copyrighted work,
7 please do not consider that copyrighted work in your
8 damages amount.

9 Total value of a Fair Market Value License is
10 \$35,600,000

11 Question 7: Contributory Infringement Damages.

12 If you found that defendant Seth Ravin engaged
13 in a contributory copyright infringement, which portion of
14 the actual damages award that you awarded against Rimini
15 Street do you find that defendant Seth Ravin is
16 contributorily liable for? The actual damages award that
17 you should use for this question is whichever damages
18 theory -- either Lost Profits or a Fair Market Value
19 License -- that you determined is the best measure of
20 actual damages.

21 Contributory Damages Amount is zero.

22 Question 8: Vicarious Infringement Damages.

23 If you found that defendant Seth Ravin engaged
24 in vicarious copyright infringement, which portion of the
25 actual damages award that you awarded against Rimini Street

1 do you find that defendant Seth Ravin is vicariously liable
2 for? The actual damages award that you should use for this
3 question is whichever damages theory -- either Lost Profits
4 or a Fair Market Value License -- that you determined is
5 the best measure of actual damages.

6 Vicarious Damages Amount is zero.

7 Statutory Damages.

8 Regardless of your verdict under the section
9 Copyright Infringement Damages above, you must determine
10 the amount of statutory damages under the Copyright Act.
11 To determine the amount of statutory damages under the
12 Copyright Act, please answer the following questions.
13 Please note that in response to Questions 9 and 10,
14 copyright infringement need not be innocent or willful, but
15 can simply be infringement. Questions 9 and 10 reflect
16 your finding as to special considerations for determining
17 statutory damages under the Copyright Act. After
18 deliberating, it may be that your answers to both Questions
19 9 and 10 are no. Such an answer is acceptable and
20 contemplated under the Copyright Act.

21 Question 9: Innocent Infringement.

22 Do you find that defendant Rimini Street has
23 proven by a preponderance of the evidence that its
24 infringement, if any, of the following copyrighted works
25 was innocent as explained in the jury instruction entitled

1 Copyright Infringement - Damages - Innocent Infringement?

2 PeopleSoft Software. Yes.

3 PeopleSoft Documentation. Yes.

4 JD Edwards Software and Documentation. Yes.

5 Siebel Software and Documentation. Yes.

6 Oracle Database. Yes.

7 If you found that defendant Rimini Street
8 engaged in innocent infringement as to all of the copyright
9 infringement that it engaged in, skip Question 10.

10 However, if you found that defendant Rimini Street did not
11 engage in innocent infringement as to all of the copyright
12 infringement that it engaged in, or that it engaged in
13 innocent infringement as to only some of the copyright
14 infringement that it was engaged in, answer Question 10.

15 Question 10: Willful Infringement.

16 Do you find that plaintiff Oracle International
17 Corporation has proven by a preponderance of the evidence
18 that defendant Rimini Street's infringement, if any, of the
19 following copyrighted works was willful as explained in the
20 jury instruction titled Copyright Infringement Damages -
21 Willful Infringement?

22 PeopleSoft Software. No.

23 PeopleSoft Documentation. No.

24 JD Edwards Software and Documentation. No.

25 Siebel Software and Documentation. No.

1 Oracle Database. No.

2 Question 11: Statutory Damages.

3 You must now determine the amount of statutory
4 damages to award Oracle International Corporation under the
5 Copyright Act. There are 100 copyright registrations
6 listed in your juror book. The parties have agreed that no
7 more than 93 copyrighted works are eligible for statutory
8 damages.

9 You may award any amount between \$200 and
10 \$150,000 for each copyrighted work infringed, depending
11 upon your findings regarding intent in the above questions.
12 If you found that the infringement as to a particular
13 copyrighted work was innocent in Question 9, then you may
14 award between \$200 and \$30,000 for each copyrighted work.
15 However, if you found that the infringement as to a
16 particular copyrighted work was willful in Question 10,
17 then you may award between \$750 and \$150,000 for each such
18 copyrighted work.

19 The total number of copyrighted works for which
20 statutory damages is awarded is 93.

21 The total amount to be awarded for statutory
22 damages is \$2,790,000.

23 Question 12: Contributory Infringement.

24 If you found that defendant Seth Ravin engaged
25 in contributory copyright infringement, what portion of the

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1 statutory damages award that you awarded against Rimini
2 Street do you find that defendant Seth Raven is
3 contributorily liable for?

4 Contributory Statutory Damages Amount is zero.

5 Question 13: Vicarious Infringement.

6 If you found that defendant Seth Raven engaged
7 in vicarious copyright infringement, what portion of the
8 statutory damages award that you awarded against Rimini
9 Street do you find that defendant Seth Raven is vicariously
10 liable for?

11 Vicarious Statutory Damages Amount is zero.

12 Inducing Breach of Contract/Intentional
13 Interference.

14 Question 14: Inducing Breach of Contract.

15 Do you find that plaintiff Oracle America, Inc.,
16 has proven by a preponderance of the evidence that
17 defendant Rimini Street and/or Seth Raven induced customers
18 of Oracle America, Inc., to breach their contracts with
19 Oracle America, Inc.?

20 Rimini Street. No.

21 Seth Raven. No.

22 If you answered yes to either defendant, what
23 amount of damages did the breach of contract cause to
24 Oracle America, Inc.? If you did not answer yes to the
25 above question as to a particular defendant, please write

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1 N/A in the appropriate space provided.

2 Rimini Street is zero.

3 Seth Ravin is zero.

4 Question 15: Intentional Interference - Oracle
5 America, Inc.

6 Do you find that plaintiff Oracle America has
7 proven by a preponderance of the evidence that defendant
8 Rimini Street and/or Seth Ravin intentionally interfered
9 with economic relationships between Oracle America, Inc.,
10 and customers that probably would have resulted in an
11 economic benefit to Oracle America, Inc.?

12 Rimini Street. No.

13 Seth Ravin. No.

14 If you answered yes to either defendant, what
15 amount of damages did that intentional interference cause
16 to Oracle America, Inc.? If you did not answer yes to the
17 above question as to a particular defendant, please write
18 N/A in the appropriate space provided.

19 Rimini Street, zero.

20 Seth Ravin, zero.

21 Question 16: Intentional Interference - Oracle
22 International Corporation.

23 Do you find that plaintiff Oracle International
24 Corporation has proven by a preponderance of the evidence
25 that defendant Rimini Street and/or Seth Ravin

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1 intentionally interfered with economic relationships
2 between Oracle International Corporation and customers that
3 probably would have resulted in an economic benefit to
4 Oracle International Corporation?

5 Rimini Street. No.

6 Seth Ravin. No.

7 If you answered yes to either defendant, what
8 amount of damages did that intentional interference cause
9 to Oracle International Corporation? If you did not answer
10 yes to the above question as to a particular defendant,
11 please write N/A in the appropriate space provided.

12 Rimini Street. Zero.

13 Seth Ravin. Zero.

14 Computer Access Claims.

15 Question 17: California Computer Data Access
16 and Fraud Act - Oracle America, Inc.

17 Do you find that Oracle America, Inc., has
18 proven by a preponderance of the evidence that defendant
19 Rimini Street and/or Seth Ravin violated the California
20 Computer Data Access and Fraud Act as explained in the jury
21 instructions?

22 Rimini Street. Yes.

23 Seth Ravin. Yes.

24 If you answered yes to either defendant, what
25 amount of damages did that violation of the California

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1 Computer Data Access and Fraud Act cause to Oracle America,
2 Inc.? If you did not answer yes to the above question as
3 to a particular defendant, please write N/A in the
4 appropriate space provided.

5 Rimini Street. \$8,827,000.

6 Seth Ravin. \$8,827,000.

7 Question 18: California Computer Data Access
8 and Fraud Act - Oracle International Corporation.

9 Do you find that plaintiff Oracle International
10 Corporation has proven by a preponderance of the evidence
11 that defendant Rimini Street and/or Seth Ravin violated the
12 California Computer Data Access and Fraud Act as explained
13 in the jury instructions?

14 Rimini Street. Yes.

15 Seth Ravin. Yes.

16 If you answered yes to either defendant, what
17 amount of damages did that violation of the California
18 Computer Data Access and Fraud Act cause to Oracle
19 International Corporation? If you did not answer yes to
20 the above question as to the particular defendant, please
21 write N/A in the appropriate space provided.

22 Rimini Street. \$5,600,000.

23 Seth Ravin. \$5,600,000.

24 Question 19: Nevada Computer Crimes Law -
25 Oracle America, Inc.

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1 Do you find that Oracle America, Inc., has
2 proven by a preponderance of the evidence that defendant
3 Rimini Street and/or Seth Ravin violated the Nevada
4 Computer Crimes Law as explained in the jury instructions?

5 Rimini Street. Yes.

6 Seth Ravin. Yes.

7 If you answered yes to either defendant, what
8 amount of damages did that violation of the Nevada Computer
9 Crimes Law cause to Oracle America, Inc.? If you did not
10 answer yes to the above question as to a particular
11 defendant, please write N/A in the appropriate space
12 provided.

13 Rimini Street. \$8,827,000.

14 Seth Ravin. \$8,827,000.

15 Question 20: Nevada Computer Crimes Law -
16 Oracle International Corporation.

17 Do you find that plaintiff Oracle International
18 Corporation has proven by a preponderance of the evidence
19 that defendant Rimini Street and/or Seth Ravin violated the
20 Nevada Computer Crimes Law as explained in the jury
21 instructions?

22 Rimini Street. Yes.

23 Seth Ravin. Yes.

24 If you answered yes to either defendant, what
25 amount of damages did that violation of the Nevada Computer

3925

1 Crimes Law cause to Oracle International Corporation? If
2 you did not answer yes to the above question as to a
3 particular defendant, please write N/A in the appropriate
4 space provided.

5 Rimini Street. \$5,600,000.

6 Seth Ravin. \$5,600,000.

7 Non-Duplicative Damages.

8 Question 21: Non-Duplicative Damages - Oracle
9 America, Inc.

10 If you found that Oracle America, Inc., suffered
11 damages as a result of defendant Rimini Street and/or Seth
12 Ravin's conduct, you must now determine the total amount of
13 damages that is not duplicative of any other damages award
14 in your verdict as explained in the jury instruction titled
15 Verdict Form - Duplicative Damages. In determining this
16 amount, you should exclude the amount awarded for statutory
17 damages as well as the amount awarded, if any, for
18 whichever damages theory you determined was not the best
19 measure of actual damages for copyright infringement,
20 either Lost Profits or a Fair Market Value License. The
21 total amount of non-duplicative damages to be awarded to
22 Oracle America, Inc., against each defendant is as follows:

23 Rimini Street, \$8,827,000.

24 Seth Ravin. \$8,827,000.

25 Question 22. Non-Duplicative Damages - Oracle

1 International Corporation.

2 If you found that Oracle International
3 Corporation suffered damages as a result of defendant
4 Rimini Street and/or Seth Ravin's conduct, you must now
5 determine the total amount of damages that is not
6 duplicative of any other damages award in your verdict as
7 explained in the jury instruction titled Verdict Form -
8 Duplicative Damages. In determining this amount, you
9 should exclude the amount awarded for statutory damages as
10 well as the amount awarded, if any, for whichever damages
11 theory you determined was not the best measure of actual
12 damages for copyright infringement, either Lost Profits or
13 a Fair Market Value License. The total amount of
14 non-duplicative damages to be awarded to Oracle
15 International Corporation against each defendant is as
16 follows:

17 Rimini Street. \$41,200,000.

18 Seth Ravin. \$41,200,000.

19 Punitive Damages.

20 If you found that Oracle America, Inc., and/or
21 Oracle International Corporation has proven by a
22 preponderance of the evidence that defendant Rimini Street
23 is liable for intentional interference with prospective
24 economic advantage, Questions 15 and 16, violating the
25 California Computer Data Access and Fraud Act, Questions 17

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1 and 18, or violating Nevada Computer Crimes Law, Questions
2 19 and 20, please answer the following question.

3 Question 25: Punitive Damages - Rimini Street.

4 Has Oracle America, Inc., and/or Oracle
5 International Corporation proven by clear and convincing
6 evidence that defendant Rimini Street engaged in malice,
7 oppression, or fraud such that punitive damages against
8 this defendant is warranted?

9 No.

10 If you found that Oracle America, Inc., and/or
11 Oracle International Corporation has proven by a
12 preponderance of the evidence that defendant Seth Ravin is
13 liable for intentional interference with prospective
14 economic advantage, Questions 15 and 16, violating the
15 California Computer Data Access and Fraud Act, Questions 17
16 and 18, or violating the Nevada Computer Crimes Law,
17 Questions 19 and 20, please answer the following question.

18 Question 26: Punitive Damages, Seth Ravin.

19 Has Oracle America, Inc., and/or Oracle
20 International Corporation proven by clear and convincing
21 evidence that the defendant Seth Ravin engaged in malice,
22 oppression, or fraud such that punitive damages against
23 this defendant is warranted?

24 No.

25 You have now completed the Verdict Form. Have

1 your foreperson date and sign the form below. Then inform
2 the court security officer that you have reached a
3 unanimous verdict. Do not give the envelope to the
4 bailiff. Your foreperson should retain possession of the
5 Verdict Form until it is requested by the judge when the
6 court reconvenes.

7 Dated this 13th day of October, 2015, by the
8 jury foreperson.

9 THE COURT: All right. Ladies and gentlemen,
10 actually because this verdict form covers so much ground,
11 before I'm going to ask you whether this truly and
12 accurately reflects your verdict, I want to give both sides
13 an opportunity to raise any questions they have with me
14 that I feel should be relayed to you.

15 As I've indicated, I've conducted a preliminary
16 review, but it was preliminary, and I owe it to both sides
17 to check with them. So I hope you understand. We'll ask
18 you to please step back into the jury room. I'll make this
19 as quickly as I can. My guess is that we're probably
20 looking at a break that will be about a half an hour.

21 So at this time, ladies and gentlemen, I'll
22 excuse you, and then when you return I'll either raise any
23 questions that I think are appropriate or I'll ask you if
24 that properly reflects your verdict.

25 You may step down. Thank you.

1 COURTROOM ADMINISTRATOR: Please rise.

2 (Jurors exit courtroom at 11:06 a.m.)

3 THE COURT: All right. Have a seat, please.

4 Obviously this is a diverse jury verdict with
5 findings in favor of both sides in different respects. And
6 I felt that I owed it to both sides to digest what the
7 verdict is and request any -- identify to me any
8 inconsistencies that they feel may exist in the verdict
9 form -- or, excuse me, the verdict returned.

10 I owe it to you, an opportunity to confer among
11 yourselves. And so we'll take a short break, not to exceed
12 10 to 15 minutes, and I'll hear from you with regard to
13 whether either side feels there are any clear mistakes or
14 inconsistencies that might be resolved or best addressed
15 with the jury before they're finally excused.

16 So we'll take that brief recess and reconvene in
17 approximately 10 to 15 minutes.

18 COURTROOM ADMINISTRATOR: Please rise.

19 (Recess from 11:07 a.m. until 11:40 a.m.)

20 (Outside the presence of the jury.)

21 COURTROOM ADMINISTRATOR: Please rise.

22 THE COURT: All right. Have a seat, please.

23 The record will show that we are in open court
24 with parties and counsel present. The jury is not present.

25 Counsel, has there been a proposed resolution of

1 what appears to be a conflict in the verdict form?

2 MR. WEBB: Well, Your Honor, I think the parties
3 agree that Question 22, as it pertains to the verdict
4 against Mr. Ravin, that there is an inconsistency.

5 It is the position of Rimini Street and
6 Mr. Ravin that the mistake is apparent from the verdict
7 form where they answered the questions on contributory
8 vicarious liability "no" for Mr. Ravin, therefore the
9 maximum amount that should be awarded against him for OIC
10 is \$5.6 million.

11 MR. ISAACSON: And we agree that there's an
12 inconsistency. And if the jury holds to their answers on
13 Questions 4 and 5 and the related Questions 7 and 8, that
14 the 5.6 million would be the correct number for the
15 non-duplicative damages in that category.

16 However, if there's an inconsistency, the jury
17 may have made an error in 4 or 5, and so we should just
18 make sure that they're doing what they intend to do.

19 MR. WEBB: And our position, Judge, is the
20 mistake is apparent from the verdict form and we don't need
21 to go back to the jury.

22 THE COURT: All right.

23 MR. ISAACSON: I think the jury does need to
24 understand that when they found direct liability on
25 copyright infringement they found it only for Rimini Street

1 as opposed to Mr. Ravin. And to the extent that they
2 thought they were finding it for Mr. Ravin and then
3 reaching that result, they need to understand that and make
4 sure that they are comfortable with their verdict on
5 contributory and vicarious.

6 THE COURT: And the Oracle position -- well --

7 MR. ISAACSON: Oracle's position, therefore,
8 would be that the jury could be told that Mr. Ravin is not
9 liable under Questions 1, 2, and 3 for direct copyright
10 infringement, and if the jury is -- has not made a mistake
11 on contributory infringement and vicarious infringement,
12 then the correct number would be 5.6 million.

13 However, if they made a mistake on vicarious or
14 contributory infringement, they should correct that mistake
15 both with respect to Questions 4 and 5 or -- and then the
16 related Questions 7 and 8.

17 THE COURT: I'm more comfortable in giving it as
18 a written instruction to the jury so that they not go back
19 in and be recalling different things.

20 So let me work on something quickly. I'll bring
21 it out to you as soon as it's ready.

22 Dionna, would you -- assuming there's no
23 objection from either side, would you advise the jury that
24 the Court's going to give them a limited question to
25 clarify their verdict.

1 COURTROOM ADMINISTRATOR: Yes, Your Honor.

2 THE COURT: And we're working that question out.

3 It will probably be another 20 minutes.

4 COURTROOM ADMINISTRATOR: Okay.

5 THE COURT: All right. Is there any objection
6 to that?

7 MR. WEBB: No, Your Honor.

8 MR. ISAACSON: No, Your Honor.

9 THE COURT: All right. That's what we'll do.

10 COURTROOM ADMINISTRATOR: Please rise.

11 (Recess from 11:44 a.m. until 12:19 p.m.)

12 (Outside the presence of the jury.)

13 THE COURT: Have a seat, please. The record
14 will show we're in open court with the parties and counsel
15 present. The jury is not present.

16 I've distributed to you a proposed draft of a
17 response to the question that's been addressed here with
18 regard to the jury's verdict.

19 And let me ask you first if there's any
20 objections to the proposed response that I gave -- that I
21 have given? Mr. Webb?

22 MR. WEBB: Your Honor, defendants object to this
23 additional instruction in its entirety, for the reasons I
24 stated earlier. The mistake is a mathematical mistake
25 that's apparent from the face of the verdict form. We are

1 concerned this is inviting them to renegotiate a verdict
2 which we believe is improper. And as written it
3 suggests -- at least can suggest, that the Questions 4, 5,
4 7, and 8 are incorrect, rather than the damages number,
5 inviting the jury to change some answers rather than
6 others.

7 And so we feel that the correct approach would
8 be to poll the jury in general as to whether or not this is
9 their true and accurate verdict and leave it at that
10 without any additional instruction, Your Honor.

11 THE COURT: All right.

12 Mr. Isaacson?

13 MR. ISAACSON: We would have two suggestions for
14 the proposed instruction. In paragraph 1, we would suggest
15 that it begin with, "Question 6c concerns damages awarded
16 against Rimini Street only not defendant Seth Ravin,"
17 period.

18 And then we think the rest of the paragraph
19 appropriately asks them to reconcile the inconsistency.
20 And I understand that counsel would like it just to be
21 reconciled in their favor, but I think that's a jury issue.

22 Then with regards to the second paragraph, which
23 is one sentence, just for clarification you would say at
24 the end -- proposed at the end, "It may also aid you to
25 review your responses to Questions 18 and 20 as to the

1 amount of damages against Seth Ravin."

2 So that they're not confused as to look at other
3 issues raised there and they're just looking at the
4 \$5.6 million there.

5 MR. WEBB: And, Your Honor, we would object to
6 both of those additional edits on grounds they are
7 unnecessary and prejudicial.

8 To the extent Your Honor believes additional
9 instructions need to be provided to the jury at this time,
10 we would simply direct the jury to the answer to Question
11 No. 22 and refer them to their answers to Questions 4, 5,
12 7, and 8 only.

13 MR. ISAACSON: Which is what I think you're
14 doing, Your Honor.

15 THE COURT: Well, I -- I'm of the view that I
16 would like to take advantage of the jury while they're
17 present and while they're best -- in the best position to
18 correct what's obviously an obvious inconsistency in their
19 verdict.

20 It could well be that the questions will
21 ultimately have to be presented to the Court concerning
22 this. But at least at this time, I would like to take
23 advantage of the jury. And I'd also like to provide them
24 with the opportunity to be dismissed.

25 I'm not going to add anything further with

1 regard to 6c, and I'm inclined to stick with what I have
2 provided to counsel with some modification. And the
3 modification would be this.

4 I added the words on your verdict after 6, 7,
5 and 8. And I believe the words should be added after
6 Questions in 18 and 20, it should be as to the amount of
7 damages awarded against defendant Seth Ravin. I agree with
8 that suggestion.

9 So unless I hear additional objection to what's
10 already been raised, what I propose to give is the
11 following instruction:

12 "As to defendant Seth Ravin, your answers to
13 Questions 4, 5, 7, and 8 on your verdict are inconsistent
14 with the total of non-duplicative damages you awarded
15 Oracle International Corporation against defendant Seth
16 Ravin in your answer to Question 22.

17 "Please review your responses to these questions
18 and determine whether you have made a mistake in your
19 responses to any of these questions.

20 "It may also aid you to review your responses to
21 Questions 18 and 20 as to the amount of damages awarded
22 against defendant Seth Ravin.

23 "I am returning your verdict to you. If you
24 unanimously agree on a change or changes to any of your
25 responses, please make it/them accordingly."

1 "If" -- there should be an added sentence here.
2 "If you do not agree that there is an inconsistency in your
3 answers, please advise the Court."

4 MR. WEBB: I have my same objections, Your
5 Honor. In addition, under Rule 606(b) it is improper to
6 inquire what jurors intended by their verdict.

7 The other piece, Judge, just to be clear, the
8 way the question currently is set, it suggests that if
9 there's inconsistency, the problem lies in their answers to
10 Questions 4, 5, 7, and 8.

11 And so just to be clear, that's an additional
12 objection that we have.

13 MR. ISAACSON: I don't know why that would be
14 the case.

15 MR. WEBB: It says your answers to Questions 4,
16 5, 7, 8 are inconsistent with the total --

17 MR. ISAACSON: I've got no objection if you say
18 the sentence, "Your answer to Question 22 is inconsistent
19 with your answers to Question 4, 5 -- 4, 5, 7 --

20 THE COURT: Let me take a look at 606(b). I
21 haven't looked at that one for a while.

22 MR. ISAACSON: I don't think it really matters
23 which one you say first.

24 MR. WEBB: I'm sorry. The case, Judge, is *Karl*
25 *v. Burlington Northern Railroad*, 880 F.2d 68.

1 THE COURT: What's the rule again?

2 MR. WEBB: 606(b), Your Honor. And the case is

3 *Karl v. Burlington Northern Railroad Company*, 880 F.2d 68.

4 And that's an Eighth Circuit decision from 1989.

5 THE COURT: I'm not finding Rule 606(b). Just a
6 minute.

7 MR. WEBB: I'm sorry, Your Honor, that's --

8 THE COURT: That's it. Just a minute.

9 MR. WEBB: I don't believe that's the right
10 rule, Your Honor.

11 MR. ISAACSON: I think it's Rule 49(b)(4) which
12 says when the answers, referring to a verdict, are
13 inconsistent with each other and one or more is also
14 inconsistent with the general verdict, judgment must not be
15 entered, instead the court must direct the jury to further
16 consider its answers and verdict --

17 THE COURT: Just a --

18 MR. ISAACSON: -- or must order a new trial--

19 THE COURT: -- minute. I've got it. Let me
20 take a look at it.

21 MR. ISAACSON: It's 49(b)(4), Your Honor.

22 THE COURT: That is the correct rule. Again, I
23 haven't looked at that in a long time.

24 Okay. Here's my proposed instruction to the
25 jury. Relying upon everything that's been stated so far.

1 "As to defendant Seth Ravin, your answers to
2 Questions 4, 5, 7, and 8 on your verdict are inconsistent
3 with the total of non-duplicative damages you awarded
4 Oracle International Corporation against defendant Seth
5 Ravin in your answer to Question 22.

6 "Please review your responses to these questions
7 and determine whether you have made a mistake in your
8 responses to any of" -- I'm going to say "any of them."

9 "It may also aid you to review your responses to
10 Question 18 and 20.

11 "I am returning your verdict to you and am
12 directing you to further consider your answers and verdict.

13 "If you unanimously agree on a change or changes
14 to any of your responses, please make it/them accordingly."

15 And I'm going to leave it at that.

16 MR. ISAACSON: Your Honor, in the second
17 paragraph you didn't include in what you just read out loud
18 the language you were going to add.

19 THE COURT: Oh, that's correct. I'm sorry.

20 So it would read -- the second paragraph would
21 read, "It may also aid you to review your responses to
22 Question 18 and 20 as to the amount of damages awarded
23 against defendant Seth Ravin."

24 MR. WEBB: And Mr. Isaacson suggested that he'd
25 be willing to flip the question so that "As to defendant

1 Seth Ravin, your answer to Question 22 is inconsistent with
2 your answers to Questions 4, 5, 7, and 8."

3 THE COURT: Okay.

4 MR. ISAACSON: You would have to say --

5 MR. WEBB: Again --

6 MR. ISAACSON: -- as to the total
7 non-duplicative --

8 MR. WEBB: Exactly. But flipping the questions.
9 As opposed to Questions 4, 5, 7, and 8 being first, we
10 would have Question 22 be first.

11 THE COURT: Okay.

12 So let me -- read that first line as you would
13 have it there, Mr. Webb.

14 MR. WEBB: "As to defendant Seth Ravin, your
15 answer to Question 22 as to total non-duplicative damages
16 you awarded Oracle International Corporation against
17 defendant Seth Ravin is inconsistent to your answers to
18 Questions 4, 5, 7, and 8 on your verdict form."

19 Do you want me to try that again, Judge?

20 THE COURT: I think I've got it.

21 Are you in agreement with that, Mr. Isaacson?

22 MR. ISAACSON: Yes, that's fine.

23 THE COURT: Here's the way I have it.

24 "As to defendant Seth Ravin, your answers to
25 Questions 22 as to total" --

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1 MR. ISAACSON: I think it's question, singular.

2 THE COURT: "Your answer to Question 22 as to
3 the total of non-duplicative damages you awarded Oracle
4 International Corporation against defendant Seth Ravin is
5 inconsistent with your answers to Questions 4, 5, 7, and 8
6 on your verdict.

7 "Please review your responses to these questions
8 and determine whether you have made a mistake in your
9 responses to any of them.

10 "It may also aid you to review your responses to
11 Questions 18 and 20 as to the amount of damages awarded
12 against defendant Seth Ravin.

13 "I am returning your verdict to you and am
14 directing you to further consider your answers and verdict.

15 "If you unanimously agree on a change or changes
16 to any of your responses, please make it/them accordingly."

17 MR WEBB: Subject to our objections, Your Honor.

18 MR ISAACSON: We agree, Your Honor.

19 THE COURT: All right. The Rimini objections
20 are reserved, and Mr. Ravin's.

21 And I'll modify this and distribute it to the
22 jury with a copy to each juror. Thank you.

23 COURTROOM ADMINISTRATOR: Please rise.

24 (Recess from 12:33 p.m. until 12:49 p.m.)

25 (Outside the presence of the jury.)

1 THE COURT: We're reconvened outside the
2 presence of the jury.

3 Please have a seat.

4 I distributed a copy of the proposed written
5 instruction I intended to provide the jury.

6 Is there any new objection to this that we
7 haven't discussed so far?

8 MR. WEBB: Your Honor, just with respect to the
9 first paragraph, we would make a change in the second line
10 after corporation to insert "appears to be inconsistent
11 with" and we would strike the --

12 THE COURT: Just a minute.

13 MR. WEBB: And strike the word "and" and then
14 put a period.

15 THE COURT: I'm sorry. Give it to me again.

16 MR. WEBB: Sure. The second line after "Oracle
17 International Corporation" we would insert the phrase
18 "appears to be inconsistent with" --

19 MR. ISAACSON: I don't understand the basis of
20 that since their previous position was that they were
21 inconsistent.

22 THE COURT: Okay. Well, let me hear -- is that
23 it?

24 MR. WEBB: Put a period after the number 8 on
25 the second line or the third line, Judge. On your verdict

1 form.

2 THE COURT: Okay.

3 MR. WEBB: And then as it pertains to the last
4 paragraph, we would object to returning the verdict to the
5 jury. Instead we would change that to "If after
6 considering this issue you believe a change to your verdict
7 is necessary, please indicate the required change."

8 Otherwise, we believe it would invite
9 reconsidering the verdict, which we believe is improper.

10 And as to Mr. Isaacson's objection to "appears,"
11 would be fine to say "is consistent with."

12 MR. ISAACSON: "Inconsistent."

13 MR. WEBB: "Is inconsistent with."

14 THE COURT: Okay. First paragraph "On your
15 verdict as to defendant Seth Ravin your answer to Question
16 22 as to the total of non-duplicative damages you awarded
17 Oracle International Corporation" --

18 MR. WEBB: Is consistent -- is inconsistent.

19 THE COURT: -- "is inconsistent with your
20 answers to Questions 4, 5, 7, and 8.

21 "Please review your responses to these questions
22 and determine whether you have made a mistake in your
23 responses to any of them.

24 "It may also aid you to review your responses to
25 Questions 18 and 20 as to the amount of damages awarded

1 against defendant Seth Raven."

2 Now, your last paragraph would read how?

3 MR. WEBB: "If, after considering this
4 issue," --

5 THE COURT: Wait a minute.

6 MR. WEBB: In place of the third paragraph,
7 Judge, I would add an entirely new paragraph.

8 THE COURT: And would it read?

9 MR. WEBB: "If, after considering this issue,
10 you believe a change to the verdict form is required,
11 please indicate the specific change on this form."

12 MR. ISAACSON: I think that's an open-ended
13 question, lends to confusion, and it's best if they stick
14 with the verdict form.

15 THE COURT: I'm not -- I'm going to stick with
16 what I have there. I'm sorry. The objection of defendants
17 will be noted for the record.

18 MR. WEBB: Thank you, Judge.

19 THE COURT: I'm going to add,

20 "I'm returning your verdict to you and am
21 directing you to further consider your verdict accordingly.

22 "If you unanimously agree on a change or changes
23 to any of your responses, please make it/them accordingly."

24 MR. WEBB: Again, Judge, I've made this
25 objection already, but just to be clear on the record, we

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1 believe that asking them to reconsider their verdict is
2 improper.

3 THE COURT: Right. I agree with you there. But
4 I'm trying to think of a way to limit this.

5 "If you unanimously agree on a change or" --

6 MR. WEBB: Maybe the above responses, directing
7 them to the --

8 THE COURT: -- "as to the above responses,
9 please make it/them accordingly."

10 I'll go for that. I don't have a problem with
11 that. "Change or changes to the above responses, please
12 make it/them accordingly."

13 That's going to be it.

14 MR. WEBB: Okay. Thank you, Judge.

15 THE COURT: All right. And I'll distribute the
16 signed copy of the instruction as we've identified it here
17 to the jury.

18 Madam Clerk, return the verdict form too.

19 COURTROOM ADMINISTRATOR: Yes, Your Honor.

20 Please rise.

21 (Recess from 12:54 p.m. until 1:14 p.m.)

22 (Outside the presence of the jury.)

23 THE COURT: Let's bring the jury in, please.

24 COURTROOM ADMINISTRATOR: Yes, Your Honor.

25 (Jurors enter courtroom at 1:14 p.m.)

1 THE COURT: All right. Have a seat, please.

2 The record will show we're in open court. The
3 jury is present. Counsel and parties are present.

4 And, ladies and gentlemen, you're well aware
5 that I sent you back a note concerning something that
6 appeared to be a mistake in your verdict form. And you've
7 responded that you've corrected what you felt was
8 appropriate.

9 And I see, ~~|||||~~, that you have the verdict
10 form. So you may hand that up, please.

11 All right. I've reviewed the verdict form. It
12 appears to only have one change to it. And that is to
13 Question 22. And the amount that was there, which was
14 \$41,200,000, has a line drawn through it, and the amount
15 entered below it of \$5,600,000, that appears to be the only
16 change to the verdict form.

17 Is that correct, ~~|||||~~?

18 FOREPERSON: Yes, it is.

19 THE COURT: All right. Ladies and gentlemen,
20 let me ask you, does the verdict form now, as it has just
21 been returned to me, fully and accurately reflect the
22 verdict of each one of you?

23 (Jurors responded affirmatively.)

24 THE COURT: All right. It appears to me that
25 everyone is in agreement with that.

1 Does either side wish to have the jury polled as
2 to this verdict?

3 MR. WEBB: We do not, Your Honor. Thank you.

4 MR. ISAACSON: We do not, Your Honor.

5 THE COURT: All right. Ladies and gentlemen,
6 that means your work as jurors is done here.

7 I have a number of comments before I release
8 you. One, this has been a very, very complex case. I can
9 tell you in all my years -- I hate to admit how long I've
10 been practicing law and how long I've been on the court,
11 but it's over 45 years, I can tell you that -- I've never
12 seen a case this complex that involved this many issues
13 before a jury as what you've seen here and before the
14 Court.

15 As you can tell, this lawsuit has been pending
16 now for over five and a half years. And it is certainly
17 what you call a mega trial and a mega lawsuit under any
18 view.

19 And as you can see, it -- going through this
20 verdict, I mean, we have 26 questions here on 14 pages of
21 verdict form. This is virtually unheard of in our civil
22 trials and our criminal trials. But what it reflects is in
23 your case all the work you had to do on this.

24 It's one thing to sit and hear the witnesses and
25 the evidence and everything that occurs here in the

1 courtroom and then, as you found, it's another thing to go
2 into that jury room and try and weave through what all of
3 this calls for and to call upon you to do the work that is
4 so important that you do.

5 I have to say, I start this trial off and I
6 start off just about every trial I have with commenting on
7 why you're here. It's because of our Constitution, a
8 constitution that's proven to protect every single one of
9 us and every single party we know in the United States
10 under our laws.

11 It's not perfect. It's a document that's
12 created by man and, because of that, it suffers from its
13 human weaknesses and frailties. But it is the strongest
14 constitution in the world.

15 And it protects each one of you individually, it
16 protects each one of these parties individually. And when
17 it comes to a jury trial and disputed issues of law and
18 fact, it comes down to you people who probably two months
19 ago didn't even know this case existed, or one like it was
20 coming up, and over the last month that you've sat through
21 every day.

22 And I have to say, I have watched you and
23 enjoyed watching you because I've seen that every one of
24 you have been so intent on doing your job and doing it
25 properly, listening to the witnesses, listening to the

1 evidence, tolerating very well the frustrations that go
2 with the stop and start that occurs in every jury trial and
3 the issues that arise and that are imposing on your
4 schedules as you sit through these trials. I'm very
5 mindful of that. And I try and keep it to a minimum. But
6 the fact is it still occurs.

7 And yet even down to the very end, when this
8 awesome responsibility is placed on you of deciding all
9 these questions and sifting through all of that evidence
10 from all of these -- I think it was 35 witnesses or
11 something thereabouts who appeared and all the attorneys
12 who have been involved in this case, and you couldn't have
13 approached your job more diligently and with more
14 responsibility.

15 And I fall back on why you're here. You're here
16 as representatives of your community. You're chosen
17 randomly, and you provide the public service that makes
18 this constitutional issue of our jury trials work.

19 And I can tell you, and I speak on behalf of
20 every judge in this courthouse, I know, that you have just
21 been outstanding examples of the people of our community
22 who are asked to come in and decide these cases.

23 It is so important what you do. And I want to
24 thank you so much for your diligence and your attention in
25 what you've done here.

1 You're going to be excused as jurors. And I
2 wanted to comment on a couple of other things. First of
3 all, you -- I have to compliment the attorneys across the
4 board in this case. You have seen professionalism at the
5 top of the ladder. These attorneys have been prepared,
6 they've done their jobs, they've worked with their
7 witnesses, they've worked with all the exhibits, they've
8 worked with all the video demonstrations. They were always
9 prepared.

10 They're representing their clients. Their
11 interests are bound to diverge. There's bound to be
12 professional disagreements. But across the board these
13 attorneys, in my view, have been as professional, as
14 polished, and as effective as any attorneys I have seen.

15 I want to compliment too the technical people
16 who have been involved in this case. When we started this
17 trial and we were just coming into the last weeks and
18 months of trial, there was something like 60 to 80,000
19 pages of exhibits.

20 These attorneys were able to get together and
21 agree upon what would be admissible, what they would want
22 to raise a challenge to in front of the Court, and what
23 they could do without. Their technical people -- and I
24 would tell you, out of all those years experience that I've
25 had, and I've tried many cases when I was a trial lawyer,

1 I've presided over hundreds of trials while I've been a
2 trial judge, I've never seen technical presentation as well
3 done as it was in this case.

4 When a witness was testifying, what you saw put
5 on the video screen for demonstrative purposes was as
6 effective as any I've ever seen. It's something you
7 just -- we don't see in our jury trials or in our major
8 trials before the Court.

9 The technical people on both sides were able to
10 immediately bring up the video depositions, immediately
11 bring up the displays for demonstrative purposes,
12 immediately serve the attorneys on each side with what they
13 needed and what those attorneys needed to do the best they
14 could for you in this trial.

15 You have been -- I mean, you talk about
16 attending the performance with a free ticket. I mean, in
17 many ways you've been able to do that during this trial,
18 because this performance, from a professional standpoint,
19 is one that's just totally praiseworthy by the Court.

20 And the outstanding lawyering and professional
21 work and cooperation that was done, I can only tell you
22 that I think someone like me really appreciates what it
23 could have been if we didn't have those things, because it
24 could have been that we would have been here for two or
25 three months at one time. That easily could have happened.

1 And it did not. And it did not happen because we had some
2 outstanding lawyers and outstanding technical support. And
3 admittedly the resources on both sides can afford that
4 because I'm certain that this was a very expensive trial
5 and litigation on both sides in this case.

6 One final point I like to make with you, of
7 course, you know that I drilled in your heads incessantly
8 that you can't discuss the case and keep your minds open
9 and all of that. And then the question arises, well, now
10 that you leave the courthouse, can you talk about the case.

11 Well, if you recall how we started, I talked
12 about our constitution. And one of those constitutional
13 rights is freedom of speech.

14 And what that means is that now that this trial
15 has concluded you, ladies and gentlemen, are free to
16 discuss this case with anyone in any way that you desire.
17 I say two things to that.

18 First of all, remember how solemn it is to
19 discuss and deliberate the case in the jury room. Every
20 juror views something just a little differently than the
21 other. Every juror expresses things a little bit
22 differently than the other. But at the end of the day, the
23 jury reaches a result and obviously performs a
24 responsibility that you've performed here and reach a
25 consensus, an agreement, a unanimous verdict, and you have

1 done that in this case.

2 I would suggest that if you're ever asked in any
3 way to speak about something that occurred in that jury
4 room, that the first thing you think about is that's
5 confidential. That's -- that should be sanctified. No
6 person should speak ill of another person who has served on
7 jury duty.

8 That's my personal view. I'm not telling you
9 this as a matter of law, I'm just telling you this because
10 that's the way I view it.

11 Another thing I'd like to say is with that
12 constitutional right to speak you also have a
13 constitutional right not to speak. And it could well be,
14 and I -- this happens commonly in cases where attorneys or
15 paralegals or investigators will want to go back and talk
16 to jurors about what happened in the case, what occurred,
17 what was strong, what was weak, et cetera. That's common.
18 You could well be contacted after you leave this jury room.

19 And I would tell you, you have no obligation to
20 speak whatsoever. That is completely up to you. And I've
21 seen nothing but professionalism here on both sides, and I
22 would expect that that would continue, and everyone would
23 know if you say "I'm sorry, I just would rather not talk
24 about it" that's the end of it.

25 If for any reason you ever felt that you were

1 being bothered by someone who wanted you to discuss and
2 disclose anything about this case, even though you didn't
3 want to do that, you get back in touch with me, because
4 I -- that's one power that I do have.

5 But I don't think that's going to happen here.
6 But you're certainly free to discuss this case in any way
7 with the people you want to discuss it with, the way you
8 want to discuss it.

9 So I want to thank you so much for your service
10 in this case.

11 We actually -- we started with nine of you,
12 because I've had lengthy jury trials before. And I know
13 that many things happen, sometimes you have an illness in
14 the family, sometimes a job change, sometimes just
15 something happens that was completely unforeseen and a
16 juror needs to be excused.

17 We seated nine of you here, even though we only
18 need, under the law, six of you. And all nine of you are
19 here today. You endured this trial from the beginning to
20 the end. You were diligent throughout. I couldn't -- I
21 mean, the fact you're all still here today speaks to what a
22 good job you did in undertaking your responsibilities in
23 this case. And I just want you to know how much I
24 appreciate that and speak on behalf of all of our judges in
25 the courthouse in thanking you in that regard.

1 So at this time, ladies and gentlemen, and
2 attorneys, counsel, parties, I'm going to thank you for all
3 of your service. I'm going to have your verdict entered as
4 a matter of judgment in this case.

5 And one other thing I meant to tell you. On
6 many trials I'm able to go back to the jury room and talk
7 to the jurors about their thoughts and feelings that they
8 had concerning the case. But I can't do that in this case.
9 And the reason I can't do it is because I have matters that
10 are still pending before me that will be pending for some
11 time to come, I'm sure.

12 It's been a complete case, it remains a complex
13 case. And as a result of that I'm not free to comment
14 under our judicial rules about anything that may be pending
15 in front of me. So, I mean, the first question I know
16 people would love to ask "What did you think of our
17 verdict?" is something I can't answer.

18 So I want you to understand that it's not
19 because of a lack of interest because I personally bond
20 with you as I watch you come into this courtroom every day,
21 and I appreciate what you do, and I'd love to just sit down
22 and chat over a sandwich or a glass of wine or anything
23 else what you think about this case. But I can't do that.

24 So I'm going to excuse you at this time. You
25 may go ahead and step down. And I thank you so much for

1 your service.

2 (Jurors exit courtroom at 1:32 p.m.)

3 THE COURT: All right. Have a seat, please.

4 Is there anything either counsel would like to
5 raise at this time?

6 MR. WEBB: Your Honor, I think Mr. Evanson would
7 like to talk about our briefing schedule for post-trial
8 motions.

9 THE COURT: Yes.

10 MR. EVANSON: Yeah. Your comments to the jury
11 captured it well. Given the complexity of the case and all
12 the issues in the case, I think both parties have stated
13 their intention to file Rule 50 motions, and I know Oracle
14 has said that it's seeking further relief as well, so we
15 just wanted to propose some sort of a briefing schedule for
16 the parties to both file their motions and then oppositions
17 and then set a hearing date -- we are happy to come to
18 Reno, so you all don't have to come here. And I don't know
19 that we need to -- we were thinking 45 days for motions, 45
20 days for oppositions, and then the final judgment to follow
21 after the hearing.

22 But I think we can -- we can probably talk about
23 that offline and propose something to the Court. I don't
24 know that we need to settle on exact dates right now.

25 THE COURT: Mr. Isaacson?

1 MR. ISAACSON: Yeah, we should meet and confer
2 on that. I don't know that we will be making a Rule 50
3 motion. I think it's, to a great extent, been mooted by
4 the findings of copyright liability.

5 What we -- however, before you enter final
6 judgment, the injunction issue needs to be resolved, and so
7 we'll very promptly move for an appropriate injunction
8 based on the copyright infringement that's been found.

9 And so we can -- and then as to the post-trial
10 Rule 50 and 59 motions, we'll meet and confer with counsel
11 about a briefing schedule.

12 THE COURT: All right. And what are you
13 comfortable with with regard to your injunctive motion?

14 MR. ISAACSON: A week from tomorrow.

15 THE COURT: That's acceptable to me.

16 And a week to respond?

17 MR. EVANSON: We'll respond whenever the Court
18 asks us to. We would propose that the parties file sort of
19 competing motions, so that they're on the same timetable
20 and we can deal with them all at once. We would file our
21 Rule 50 motions and they would file their injunction motion
22 and then deal with those issues and attorney's fees and
23 whatever else needs to be dealt with all in one hearing
24 rather than dealing with them piecemeal. That would be our
25 proposal.

1 THE COURT: Okay.

2 MR. ISAACSON: I think it would be appropriate
3 for the Rule 50 and 59 motions to be dealt with once we
4 have a final judgment. And for that final judgment we need
5 to resolve the injunction issue, which we think -- and the
6 Court is obviously the trier of fact and law for the
7 injunction issue. And so in order to actually complete
8 this trial, we think we need to resolve the injunction
9 issue.

10 THE COURT: All right. Well --

11 MR. EVANSON: Could I respond to that last
12 point, Your Honor?

13 THE COURT: Go ahead.

14 MR. EVANSON: Rather than entering -- dealing
15 with the injunction, entering final judgment, then doing
16 post-trial motions, then potentially altering the judgment,
17 then doing attorney's fees, and then potentially altering
18 the judgment again, we would propose again dealing with
19 these on, you know, cross-motions, dealing with it all at
20 once, and then the Court can enter one final judgment that
21 incorporates all of the parties' post-trial requested
22 relief, which can then be bonded and appealed depending on
23 where we are at that point, rather than, again, dealing
24 with it piecemeal and having three different final
25 judgments entered before the parties go up on appeal.

1 MR. ISAACSON: From Oracle's point of view, this
2 is not just a matter of reconciling briefing schedules for
3 the lawyers. The issue of the injunction is a serious one
4 when there's been a finding of substantial copyright
5 infringement. Oracle requires that protection. We don't
6 want to wait for a 45-day briefing schedule in order to
7 have the final judgment with the injunction entered.

8 And so it's not a matter of just working out
9 lawyer schedules on that sort of thing or paralleling it
10 with Rule 50 and 59 motions. It's a serious substantive
11 issue, and we would like for it to be resolved sooner
12 rather than later.

13 MR. EVANSON: And given the complexity and the
14 seriousness of the issues, it's obviously serious for
15 defendants as well. You know, turning around these briefs
16 in a matter of a couple weeks, we think is unnecessarily
17 rushed.

18 So we would -- I mean, maybe it's not 45 days,
19 maybe it's 30. But, you know, we would request more time
20 for both the motions and the oppositions.

21 MR. ISAACSON: We don't think --

22 THE COURT: Well, let me tell you where I am.

23 The -- I understand the concern about the
24 injunctive relief, and so I will set a timeframe for that.
25 You've indicated you could have it on file within a week.

1 I would give defendants a 10-day period to respond and the
2 usual 5-day period to reply on behalf of Oracle.

3 But with regard to everything else, I have no
4 problem with your 90-day proposal, Mr. Evanson, 45 and 45,
5 and a short reply time afterwards.

6 I'll just leave it to you, Counsel, to see what
7 you can agree on. And to the extent there may be any
8 overlap between the injunctive issues and the other issues,
9 I'm sure those are going to be identified in the briefing
10 that's filed.

11 I have no problem with the timetables that have
12 been mentioned here. But I appreciate the injunctive
13 concern on behalf of Oracle.

14 MR. ISAACSON: Thank you, Your Honor.

15 THE COURT: So that will be the order.

16 Is there anything else?

17 MR. ISAACSON: Nothing further, Your Honor.

18 THE COURT: All right. Well, once again,
19 Counsel, I reiterate my comments here. These trials are
20 ordeals to everyone, including staff and the Court, and I
21 know to the parties and to counsel, but I compliment
22 everyone in this courtroom on the job that's been done on
23 this case. It's been just a very professional and
24 fulfilling and interesting experience for me. I've enjoyed
25 it.

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1 So I thank you very much.

2 The Court will be in recess, I'm happy to say.

3 (The proceedings concluded at 1:38 p.m.)

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I certify that the foregoing is a correct
transcript from the record of proceedings
in the above-entitled matter.

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10/14/15

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Donna Davidson, RDR, CRR, CCR #318
Official Reporter

Date

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